IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT
**THE HON'BLE MR JUSTICE GODA RAGHURAM**
**WRIT PETITION NO : 3766 of 2005**

**Between**

Sri Manik Chand Jain S/o Mukund Chand Jee

…PETITIONER

AND

1. The Principal Secretary, Higher Education-(IE.II) Dept.,Government of A.P.Hyderabad.
2. The Commissioner of Intermediate Education,Andhra Pradesh, Hyderabad.
3. Regional Joint Director of Intermediate Education, Guntur
4. The District Vocational Educational Officer, Guntur
5. The President, Mahaveer Memorial Junior College, Indiragandhi Nagar, Guntur

….RESPONDENTS

Petition under Article 227 of Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue any writ order or direction particularly one in nature of Mandamus declaring that the proceedings of the first respondent in Memo.No.PSP/986/IE,dt.19-02-2005 and the order of the R2 in Rc.No.Admn.1-B-2/154/2004, dt.25-01-2005 are illegal, arbitrary, without jurisdiction and is invalid of Principal of natural justice consequently set-aside the same and pass such other order or orders.

**COUNSEL FOR THE PETITONER: D.V.REDDY**

**COUNSEL FOR THE RESPONDENTS: ---**

The Curt, at the stage of admission, made the following::

ORAL ORDER

By the order dated 25-01-2005 of the 2nd respondent, the petitioner, Secretary and Correspondent of Sree Mahaveer Memorial College, Guntur, was removed from office purportedly exercising power under Section 24(3) of Andhra Pradesh Education Act, 1982. Aggrieved, the petitioner preferred an appeal to the first respondent on 10-02-2005. It would appear that initially stay was granted which was however, vacated by the first respondent on 21-02-2005. Earlier, as against the order dated 25-01-2005 of the second respondent, the petitioner preferred writ petition No.1372 of 2005. This writ petition was disposed of by the judgment dated 04-02-2005 permitting the petitioner to avail the appellate remedy under Section 89 of the Andhra Pradesh Education Act,1982 while declining to exercise the jurisdiction under Article 226 of the Constitution of India in the context of availability of the appellate remedy.

The petitioner has now filed the writ petition challenging a memo of the first respondent dated 19-02-2005 as well as the proceedings of the 2nd respondent dated 25-01-2005. In respect of the latter proceedings, the petitioner as already stated, has preferred the appellate remedy. It appears that the mention of a proceedings dated 19-02-2005(challenged in the writ petition) is misconceived as what the petitioner perhaps intends to challenge

is a memo dated 21-02-2005 of the first respondent, vacating a stay earlier granted on 11-02-2005.

In the facts and circumstances above, the exercise of the ad-interim discretion by the first respondent, of granting or vacating the stay in an appeal preferred against an order of the second respondent does not call for scrutiny or review in this writ petition under Article 226 of the Constitution of India. As against the order of the second respondent dated 25-01-2005 the petitioner had already preferred an appeal and hence he should not be permitted to canvas the correctness of the order of the second respondent in this writ petition, simultaneously while pursuing the appeal.

For the aforesaid reasons the writ petition is dismissed. The first respondent shall expeditiously consider and dispose of the appeal preferred by the petitioner.

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**GODA RAGHURAM,J**

**22ND FEBRUARY 2005**
*TSNR

**To**

1 The Principal Secretary, Higher Education-(IE.II) Dept., Government

of A.P.Hyderabad.

2 The Commissioner of Intermediate Education,Andhra Pradesh, Hyderabad.

3 Regional Joint Director of Intermediate Education, Guntur

4 The District Vocational Educational Officer, Guntur

5 The President, Mahaveer Memorial Junior College, Indiragandhi Nagar, Guntur

6 Two C.D.Copies.